IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

Civil Revision No. 382 of 2001.

Date of Decision: 12th November, 2007.

Sh. Sanjeev Kumar ***….. Petitioner.***

Versus

Sh. Diwan Singh and another ***……Respondents.***

Coram

The Hon'ble Mr. Justice Dev Darshan Sud,Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr. Ajay Kumar, Advocate.

For the Respondents: Mr. K.D. Sood, Advocate, for respondent No. 1.

Dev Darshan Sud, Judge.

This revision has been preferred by the tenant against the judgment of the learned appellate Authority confirming the judgment and order of the learned Rent Controller (1), Kangra, allowing the petition for eviction instituted by respondent No. 1-landlord against the petitioner.

The landlord had instituted the petition in the Court of learned Rent Controller, Kangra praying for a decree for eviction against the petitioner on the ground of sub-letting, change of user and the premises being required bonafide by him for construction etc.

The appeal filed before the learned appellate Authority by the tenant was dismissed, upholding the ejectment of the petitioner on the ground of sub-letting only.

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[1] Whether Reporters of Local Papers may be allowed to see the judgment?

Without entering into the merits of the rival contentions raised by the learned counsel for the parties, it needs to be noticed that it was contended before the learned appellate Authority that the learned Rent Controller had not conducted the proceedings in accordance with law and that having kept the matter pending for long period of time, issues were framed on 3.5.2000, evidence of the land lord was recorded on 16.5.2000 and the petitioner had not been given reasonable opportunity to lead evidence in defence. On 16.5.2000, learned Rent Controller had directed the petitioner to produce his entire evidence on 24.5.2000. Thereafter on 29.5.2000 the matter was heard and decided. The contention raised by the tenant that the matter was decided with undue haste and that he had been condemned unheard was considered by the appellate Authority who, treated it in a slip shod manner holding that since the counsel for the respondents was present in the court, there was no question of petitioner-tenant being deprived of any opportunity of defending his case.

The record is revealing. It discloses a gross violation of the principles of natural justice. The Himachal Pradesh Urban Rent Control Act, 1987 which governs eviction of tenants, does not exclude the applicability of this principle. Any judicial proceeding under any statute does not shut out evidence in defence. Record shows that the petition was instituted on 7.11.1996 and the issues came to be framed on 3.5.2000. No effective work was done by the court during this period other than adjourning the matter or putting it up before the Lok Adalat for conciliation proceedings etc. Abruptly on 3.5.2000 when issues were framed, date for evidence of the landlord was fixed for 16.5.2000, on which date evidence of the land lord was recorded and the matter was fixed for 24.5.2000 for recording the evidence on behalf of the petitioner/tenant. A period of eight days is not sufficient to provide a reasonable opportunity to the tenant to meet the case against him. Rather,

this undue haste leaves many things unsaid. The approach of the learned Rent Controller, to say the least is absolutely arbitrary, against law and all known cannons of justice and fair play. However, if this was not sufficient, the learned appellate Authority has gone a step further and placed the entire blame on the counsel for the petitioner-tenant holding that his mere presence in the court was sufficient notice to the petitioner-tenant to have complied with the directions of the Court on 16.5.2000. To say the least, this discloses the perversity of approach to the lis Surely, both the Presiding Officers of the courts below are trained Judicial Officers who should have applied their mind to the facts of the case and should not have proceeded in hot haste in allowing the eviction. No chance, leave alone fair chance or opportunity has been given to the petitioner. I close the matter here as the speed and haste with which the matter has been disposed of after having been kept pending for four years discloses eagerness to render the decision for the sake of disposal and nothing else.

In the facts and circumstances of the case, without entering into the merits of the respective contentions of the parties, this revision is allowed. The judgment of both the courts below is quashed and set aside and a direction issued to the learned Rent Controller that petition be readmitted for trial from the stage after the land lord has closed his evidence. He will give adequate opportunity to the petitioner-tenant to lead his evidence in defence and to the landlord to produce evidence in rebuttal, if any. Parties will appear before the learned Rent Controller on **7.12.2007**. A further direction is issued that the entire matter should be disposed of within a period of six months from the date when the learned Rent Controller takes the file on the record i.e. from 7.12.2007. No extension of time will be given for deciding the matter beyond this period.

The petition is disposed of with these directions. There shall be no order as to costs. Record of the trial Court be sent back immediately.

12th November, 2007. **(Dev Darshan Sud),**
(cm) **Judge.**